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DEPARTMENT OF HEALTH

Repeal of Chapter 11-145, General Provisions for
Services from the Community Services for the
Developmentally Disabled Branch and Adoption of
Chapter 88 of Title 11, Administrative Rules

SUMMARY

1. Chapter 145 General Provisions for Services from the Community Services for Developmentally Disabled Branch are repealed.
2. Chapter 88, Title 11, Administrative Rules, entitled, "Services for the Developmentally Disabled or Mentally Retarded", is adopted.

HAWAII ADMINISTRATIVE RULES

TITLE 11

DEPARTMENT OF HEALTH

CHAPTER 145

COMMUNITY SERVICES FOR THE DEVELOPMENTALLY

DISABLED; GENERAL PROVISIONS

Repealed

§§11-145-1 to 11-145-50 Repealed. [OCT 22 1990]

HAWAII ADMINISTRATIVE RULES

TITLE 11

DEPARTMENT OF HEALTH

CHAPTER 88

SERVICES FOR THE DEVELOPMENTALLY DISABLED OR
MENTALLY RETARDED

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SUBCHAPTER 1

GENERAL PROVISIONS

§11-88-1 Purpose. The purpose of this chapter is to establish rules for the developmental disabilities division (hereinafter referred to as the division). The division shall establish a system, services, and conditions for the provision of services for persons who are developmentally disabled and/or mentally retarded hereinafter referred to as "dd/mr" as defined in section 11-88-3. [Eff. OCT 22 1990] (Auth: HRS §§321-9, 321-10, 333F-18) (Imp.: HRS §333F-18)

§11-88-2 Philosophy and mission. The division's philosophy is that programs and services developed and organized for persons who are dd/mr are based on the belief that every individual is of value regardless of the nature or severity of their disability. The division recognizes every person who is dd/mr as a person with inalienable human and civil rights, including the right to due process.

The division's mission is to provide opportunities to persons who are dd/mr so they may develop to their fullest potential. The mission is to be accomplished through planning, development, monitoring, coordination, and administration of a comprehensive system of programs and services.

[Eff. OCT 22 1990] (Auth: HRS §§321-9, 321-10, 333F-18) (Imp.: HRS §§333F-2, 333F-3, 333F-4)

§11-88-3 Definitions. As used in this chapter:

"Active treatment" means provision of services as specified in an individualized service plan. These services may include, but are not limited to, activities, experiences, and therapy which are part of a professionally developed and supervised program of health, social, habilitative, and developmental services.

"Adult activity programs" means a continuum of programs designed to develop and maintain the personal, social, mobility, and pre-employment skills of adult dd/mr persons.

"Case management services" means services to persons with developmental disabilities or mental retardation that assist them in gaining access to

needed social, medical, legal, educational, and other services, and includes:

- (1) Follow-along services which assure, through a continuing relationship between an agency or provider and a person with a developmental disability or mental retardation and the person's parent, if the person is a minor, or guardian, if a guardian has been appointed for the purpose, that the changing needs of the person and the family are recognized and appropriately met.
- (2) Coordinating and monitoring services provided to persons with developmental disabilities or mental retardation by two or more persons, organizations, or agencies.
- (3) Providing information to persons with developmental disabilities or mental retardation about availability of services and assisting the persons in obtaining the services.

"Community residential living alternatives" means a continuum of living arrangements that offers the individual varying levels of structure, supervision, services, and activities based upon individual needs.

"Department" means department of health.

"Developmental disabilities" means a severe chronic disability of a person which:

- (1) Is attributable to a mental or physical impairment or combination of mental and physical impairments;
- (2) Is manifested before the person attains age twenty-two;
- (3) Is likely to continue indefinitely;
- (4) Results in substantial functional limitations in three or more of the following areas of major life activity; self-care, receptive and expressive language, learning, mobility, self-direction, capacity for independent living, and economic self-sufficiency; and
- (5) Reflects the person's need for a combination and sequence of special, interdisciplinary, or generic care, treatment, or other services which are of lifelong or extended duration and are individually planned and coordinated.

"Diagnostic evaluation" means an empirical process that determines if, and to what degree, an individual has developmental deficits, and what interventions and services are needed to enable the individual to move

toward increasing independence. This process, applicable to all age groups, identifies the individual's strengths, abilities, and developmental needs; the conditions that impede the individual's development; and, where possible, the cause of disability.

"Director" means director of health.

"Division" means the developmental disabilities division, department of health, State of Hawaii.

"Division chief" means the chief of the developmental disabilities division.

"Guardian of person" means a court appointed legal guardian of the person pursuant to sections 560:5-204 and 560:5-304, Hawaii Revised Statutes; or a court appointed legal guardian of the person as provided in section 333F-16, Hawaii Revised Statutes, or chapter 333F-11, Hawaii Revised Statutes, and its predecessor.

"Guardian of the property" means a court appointed legal guardian of the property pursuant to section 560:5-401, Hawaii Revised Statutes.

"Habilitation" is the process by which an individual is assisted to cope more effectively with the demands of the individual's physical, mental, and social functioning. Habilitation includes, but is not limited to, programs of formal structured education and treatment.

"Hawaii adaptive behavior scale" (HABS) is a screening tool to determine the substantial functional limitations of individuals in the areas of self-care, mobility, language, learning, self-direction, capacity for independent living and economic self-sufficiency.

"Homemaker service" means in-home service by a homemaker or nurse's aide designed to provide parental relief by the provision of or assistance to persons with dd/mr in personal care or light housekeeping or cooking as needed.

"Individualized service plan" means the written plan required by section 333F-6 and further clarified in 11-88-34.

"Individually appropriate" means responsive to the needs of the person as determined through interdisciplinary assessment and provided pursuant to an individualized service plan.

"Intake worker" means a qualified staff person who accepts applications and assists in the applications process and who determines eligibility for services based on accepted criteria and/or an interdisciplinary team's recommendation.

"Interdisciplinary team" means a group of persons drawn from or represents those professions, disciplines, or service areas that are relevant to identifying an individual's needs and designing a program to meet them, and is responsible for evaluating the individual's needs, developing an individual program plan to meet them, periodically reviewing the individual's response to the plan, and revising the plan accordingly. A complete team includes the individual being served, unless clearly unable to participate; the individual's family, unless their participation has been determined to be inappropriate; those persons who work most directly with the individual in each of the professions, disciplines, or service areas that provide service to the individual, including direct-care or direct-contact staff; and any other persons whose participation is relevant to identifying the needs of the individual and devising ways to meet them.

"Least restrictive" means the least intrusive and least disruptive intervention into the life of a person with developmental disability or mental retardation that represents the least departure from normal patterns of living that can be effective in meeting the person's developmental needs.

"Least restrictive environment" means that environment that represents the least departure from normal patterns of living that can be effective in meeting the individual's needs.

"Legal representative" means a person(s) who has been designated by the courts or privately retained to represent the legal interests of persons with dd/mr.

"Mental retardation" means significantly subaverage general intellectual functioning resulting in or associated with concurrent moderate, severe, or profound impairments in adaptive behavior and manifested during the developmental period.

"Monitor" means to conduct a systematic, coordinated, objective, qualitative review of services provided by any person, agency, or organization.

"Normalization principle" refers to making the commonly accepted patterns and conditions of everyday life available to persons with dd/mr.

"Outreach services" means services which identify individuals who are dd/mr in the community who are in need of services, inform them of the availability of, and assist them in obtaining such services.

"Prevention" means planned individual and community services designed to avert or minimize the impact of dd/mr.

"Purchase of service" means contracting for the provision of services by private organizations to fulfill a public purpose.

"Representative" means any individual who can advise and advocate for a person with developmental disabilities or mental retardation and who shall serve at the request and pleasure of such person; provided that if the person with developmental disabilities or mental retardation is a minor or is legally incapacitated and has not requested a representative, the parent or guardian of the person may request a representative to assist on behalf of the person with developmental disabilities or mental retardation.

"Residence" or "residential" means the living space occupied by the person with a developmental disability or mental retardation, including single-person homes, natural family homes, care homes, group homes, foster homes, institutional facilities, and all other types of living arrangements.

"Resident" means persons in residence at Waimano training school and hospital or on temporary leave of absence from there.

"Respite services" means the provision of temporary relief to a family or caregiver from the demands of caring for persons who are dd/mr.

"Services" means appropriate assistance provided to persons who are dd/mr in the least restrictive environment. These services include, but are not restricted to: case management, residential, developmental, and vocational support, training, habilitation, active treatment, day treatment, day activity, respite care, domestic assistance, attendant care, rehabilitation, speech, physical, occupational, and recreational therapy, recreational opportunities, counseling, including counseling to the person's

family, guardian, or other appropriate representative, development of language and communication skills, interpretation, transportation, and equipment.

"Support services" means services to families, which are provided in the array of services, to meet the developmental needs of the individual and family. These services may include, but not be limited to, counseling, respite services, and activity programs.

"Waimano" means Waimano training school and hospital branch.

"Ward" means a person for whom a legal guardian of the person has been appointed. A "minor ward" is a minor for whom a legal guardian of the person has been appointed solely because of the person's minority status. [Eff. OCT 22 1990] (Auth: HRS §§321-9, 321-10, 333F-18) (Imp.: HRS §§333F-1, 333F-3, 333F-4, 333F-5)

§11-88-4 Scope of services. (a) Services provided by the division may include, but shall not be limited to:

- (1) A single entry to division services provided under this chapter for persons who are dd/mr shall be established geographically as needed, including those who may receive services from private providers of services.
- (2) Access to individually appropriate services in the least restrictive environment in coordination with other federal, state, county, or private agencies.
 - (A) Provision and development of comprehensive diagnostic evaluations for early identification and evaluation on a statewide basis.
 - (B) Provision, contracting, and monitoring of services for prevention or amelioration and management of the handicapping conditions within an interdisciplinary framework for infants and children who are dd/mr or who are developmentally delayed and their families.
 - (C) Provision, planning, development, contracting, coordination, and monitoring of adult programs which may

- include, but shall not be limited to socialization, recreation, training in activities of daily living and pre-employment.
- (D) Provision, planning, development, contracting, coordination, and monitoring of support services to families including but not limited to respite and homemaker services.
 - (E) Provision, contracting, and monitoring of coordinated case management services for persons who are dd/mr in the community.
 - (F) Provision, contracting, and monitoring of residential services for persons who are dd/mr.
 - (G) Provision of institutional services at Waimano for those unable to live in the community.
 - (H) Recruiting, licensing, and monitoring of foster homes for adults who are dd/mr and placement of these adults in these homes.
 - (I) Recruiting, training, and monitoring of foster homes for children who are dd/mr, and placement of these children in these homes.
 - (J) Provision and monitoring of other programs, services, or facilities as necessary for persons who are dd/mr.
- (3) Planning and developing cooperatively with public and private agencies and consumers, programs of information and referral, prevention, education, training, outreach, and support services.
 - (4) Consultative services to the judicial branch of government, to educational institutions, and to health and welfare agencies whether such agencies are public or private.
 - (5) Planning, development, and provision of programs through purchases of service in the public or private sector.
 - (6) Monitoring of purchase-of-service (POS) contracts in the public or private sector.
- (b) Provisions for programs and services shall be limited to the amount of resources allocated or available for purposes of this chapter.

(c) Protection and enhancement of the rights of persons receiving or applying for services shall be recognized at all times.

(d) All records, applications, reports, certificates or other documents made for the purposes of these rules which directly or indirectly identify a person subject hereto shall be kept confidential pursuant to the provisions of section 333E-6, HRS. [Eff. OCT 22 1990] (Auth: HRS §§321-9, 321-10, 333F-18) (Imp.: HRS §333F-2)

§11-88-5 Provision of services. (a) The director may provide services directly by department staff or by purchase of service providers to eligible individuals.

(b) The director may, following the process for purchase of service set forth in chapter 42, Hawaii Revised Statutes, contract with private groups, institutions, corporations, and other qualified private organizations to provide a continuum of services for persons who are dd/mr. Services provided by purchase of service providers shall be limited by the terms, scopes, and funding specified in the purchase of service contract.

(c) The director may also enter into agreements to effectuate the purposes of this chapter with the federal government, other state departments and agencies, and the counties.

(d) The division may obtain services from professionals or agencies for a fee for persons who are dd/mr. In these instances, the division shall reimburse the provider of such services according to the department or division's negotiated payment rates for the service.

(e) The division shall require private agencies who receive division funds for program services and who generate revenues from products and/or services by program participants, to use the revenues from products and/or services for the purpose for which the funds were originally granted. Further, the revenues may be used for:

- (1) Expanding the project or program,
- (2) Supporting other projects or programs that further the services for persons who are dd/mr, and
- (3) Obtaining equipment or other assets needed for the project or program.

(f) The division shall require private agencies who receive division funds for the provision of services, and who obtain income generated from the provision of such services, to apply the income towards the allowable costs of such services before the funds of the division are expended. Such income includes, but is not limited to Housing and Urban Development rental subsidies, supplemental security income, food stamps, cost shares, service charges, income generated from interest earned on the advancement of payments by the division and contributions or fees solicited to defray service costs.

[Eff. OCT 22 1990] (Auth: HRS §§321-9, 321-10, 333F-18) (Imp.: HRS §333F-17)

§11-88-6 Transfer of funds. (a) The department may transfer funds appropriated for the care and treatment of persons who are dd/mr, to the department of human services to match federal funds available under Title XIX of the Social Security Act, Code of Federal Regulations, Chapter 42, Public Health.

(b) The department may expend federal funds received for the purposes of dd/mr services.

[Eff. OCT 22 1990] (Auth: HRS §§321-9, 321-10, 333F-18) (Imp.: HRS §333F-13)

§11-88-7 Reserved.

§11-88-8 Reserved.

§11-88-9 Reserved.

SUBCHAPTER 2

APPLICATION FOR SERVICES

§11-88-10 Intake and application process. (a) All persons, legal representatives or representative of such persons applying for available dd/mr services shall do so through the division's single-entry intake system.

(b) The application for services shall be made in writing on an application form prescribed by the division. If applicant cannot complete the form, the intake worker will provide assistance.

(1) The form should be signed and any available information such as psychological, medical, social summary and other reports shall be attached to the form to establish eligibility for services.

(2) The application for services form should be signed by one of the following persons:

(A) The adult person who is dd/mr;

(B) When the applicant is incapacitated, by the legal representative acting for the individual;

(C) A family member, or other representative; or

(D) If the individual is a minor, the parent or legal representative.

(3) The intake worker shall interview the applicant at a mutually convenient location.

(4) Submission of an application for services form shall formalize the application.

(c) The date of application shall be the date of the receipt of application for services form by the intake worker. [Eff. OCT 22 1990] (Auth: HRS §§321-9, 321-10, 333F-18) (Imp.: HRS §333F-6)

§11-88-11 Primary source of information for determination for eligibility. The applicant, applicant's legal representative, or representative, may provide the division with any available information to help determine eligibility; and to assist in identifying the nature and type of services needed. [Eff. OCT 22 1990] (Auth: HRS §§321-9, 321-10, 333F-18) (Imp.: HRS §§333F-6, 333F-9)

§11-88-12 Handling applications. When the application is received, the intake worker shall examine it for completeness. The worker shall:

(a) Review documentation relating to social/medical/developmental/psychological/educational/vocational history of the applicant and review the nature of the situation; then, acquire whatever additional information is needed to make a determination of eligibility.

(b) Determine whether the applicant is eligible for services according to the general eligibility provisions of sections 11-88-21 or 11-88-22 of these rules. [Eff. OCT 22 1990] (Auth: HRS §§321-9, 321-10, 333F-18) (Imp.: HRS §333F-6)

§11-88-13 Disposition of application. (a) The intake worker shall, within thirty (30) working days, take one of the following actions:

(1) Determine that the applicant is eligible for services as specified in 11-88-21.

(2) Implement a new mutually agreed upon written timeline because of unavoidable difficulty in obtaining information necessary to process the application.

(3) Determine that the applicant is determined ineligible for services when:

(A) The applicant does not meet the eligibility requirements specified either under sections 11-88-21 or 11-88-22;

(B) The applicant leaves the state or the applicant's whereabouts are unknown;

(C) The application is withdrawn.

(D) The division is unable to obtain necessary verification to establish eligibility.

(b) The intake worker shall inform the applicant for services in writing of the disposition of the application.

(c) The intake worker shall inform the applicant both verbally and in writing of the right to appeal if the decision was a denial of services. The appeal shall be in accordance with section 11-88-38.

(d) An applicant may be referred to services provided by other agencies under other federal, state, or county laws when the service request cannot be met by the division. [Eff. OCT 22 1990] (Auth: HRS §§321-9, 321-10, 333F-18) (Imp.: HRS §333F-6)

§11-88-14 Reserved.

§11-88-15 Reserved.

SUBCHAPTER 3

SERVICES

§11-88-16 Receipt of services. (a) Services shall be provided to applicants determined eligible, and provided that appropriate services are available, services shall be initiated or arranged within thirty working days after the decision on eligibility has been made.

(b) When the eligible applicant cannot be served due to the unavailability of services, the applicant shall:

- (1) Be assisted to find other community or department resources and/or
- (2) Have their name placed on the division's waiting list(s) for division-funded services until the individual may be accommodated at which time authorization for the service shall be made. [Eff. **OCT 22 1990**]
(Auth: HRS §§321-9, 321-10, 333F-18) (Imp.: HRS §333F-6)

§11-88-17 Reserved.

§11-88-18 Reserved.

§11-88-19 Reserved.

§11-88-20 Reserved.

SUBCHAPTER 4

GENERAL ELIGIBILITY

§11-88-21 Eligibility determination for community services. (a) Upon receipt of an application for services form, the intake worker shall begin the screening of the application for the eligibility of services. The intake worker shall determine eligibility for developmental disabilities services by the following processes:

- (1) Children suspected of having any developmental problems may be referred for diagnostic evaluation.
- (2) If the individual for whom the application for services has been made has been certified by the department of education, special education section as moderate mental retardation, severe mental retardation, profound mental retardation, severely multiply handicapped, or autistic, the applicant is presumed to be developmentally disabled.
- (3) For all other individuals, the division shall screen the applicant. The screening shall be to determine the existence of developmental disabilities as defined in section 11-88-3.
- (4) The five broad criteria as provided in section 11-88-3, "Developmental disabilities," shall provide the framework from which a screening for developmentally disabled will be made.
 - (A) Criteria (1), (2), (3), and (5) shall be determined by the intake worker based upon the information available through the application process.
 - (B) Criterion (4) shall be assessed by the intake worker according to age of the individual, as follows:
 - (i) 0-3 years: Substantial deficit in one or more of the following life activity areas: self-care, receptive and expressive language, learning, mobility as determined through diagnostic evaluation.
 - (ii) 4-19 years: Substantial deficits in two or more of the life activity areas including economic self-sufficiency as determined by department of education assessments.

- (iii) 20-64 years: Substantial deficits in three or more of the life activity areas as determined through Hawaii adaptive behavior scale (HABS) screening.
 - (iv) 65+ years: Substantial deficits in two or more of the life activity areas excluding economic self-sufficiency as determined through HABS screening.
 - (v) If any individual who is 20 years or older fails to qualify for eligibility through the HABS screening, the intake worker shall refer the individual on for further diagnostic evaluations.
- (b) For persons who are not developmentally disabled, but are believed to be mentally retarded, the intake worker shall determine eligibility for mental retardation services by the following processes:
- (1) If the individual for whom the application for services is made is certified by the department of education, special education section as moderately mentally retarded, severely mentally retarded, or profoundly mentally retarded, the applicant is presumed to be mentally retarded.
 - (2) An individual for whom the application for service is made is eligible for community services if the applicant is found to be moderately, or severely, or profoundly retarded based on the standardized intelligence and adaptive behavior tests, and that such deficits are manifested during the developmental period from birth to age 18. For example, 51 on the Stanford-Binet and 54 on the Wechsler scale for intelligence and resulting in or associated with adaptive behavior score of less than 51 on the Vineland Social Maturity Scale.
- [Eff. OCT 22 1990] (Auth: HRS §§321-9, 321-10, 333F-18) (Imp.: HRS §333F-6)

§11-88-22 Eligibility for admission to Waimano.

(a) Upon receipt of the application form, the intake worker shall determine whether the person for whom services are being sought is developmentally disabled or mentally retarded. Appropriateness of Waimano placement shall also be determined.

(b) The individual shall meet the following criteria before Waimano placement can be considered:

- (1) For developmental disabilities, as defined under section 11-88-3 or
- (2) Profoundly or severely mentally retarded, as determined by results obtained through the administration of standardized intelligence and adaptive behavior tests conducted by qualified professionals and that such deficits are manifested during the developmental period from birth to age 18. For example, the results of the intelligence tests shall be no less than four standard deviations below the norm, or 34 on the Stanford-Binet and 39 on the Wechsler scale resulting in or associated with adaptive behavior score of less than 35 on the Vineland Social Maturity Scale.

Additionally, the individual must meet all of the following criteria:

- (1) Incapable of independent self-support and self-management in the community; or incapable of attaining self-support and self-management without proper treatment and training; and
- (2) Requires institutional care, supervision, control, treatment and training for his or her own welfare; and
- (3) No suitable or available less restrictive residential alternative exists in the community. [Eff. OCT 22 1990] (Auth: HRS §§321-9, 321-10, 333F-18) (Imp.: HRS §333F-9)

§11-88-23 Reserved.

§11-88-24 Reserved.

§11-88-25 Reserved.

§11-88-26 Reserved.

SUBCHAPTER 5

GENERAL OPERATIONS AT WAIMANO

§11-88-27 Requesting admission to Waimano.

(a) When seeking admission to Waimano, application shall be made in accordance with HRS 333F-9, under the following procedure:

- (1) The applicant shall submit evaluations of a qualified physician, clinical psychologist, and social worker to the intake worker. The evaluations shall support placement of the person at Waimano as being the most appropriate and least restrictive environment.
- (2) Exploration of other alternatives shall be included in this request.

(b) The intake worker or case manager shall submit the request for admission to the Waimano admission committee consisting of, but not limited to Waimano branch chief and section supervisors, social worker, psychologist, and interdisciplinary team members, as appropriate.

(c) The Waimano admission committee shall review the request for admission within ten working days after receipt of all reports.

(d) The Waimano social worker shall notify the referring worker of the committee's recommendation;

- (1) If the decision is made to admit the person to Waimano, the social worker shall advise the referring worker that the admission packet and the applicant assessment for intermediate care facility for the mentally retarded (form DHS 1150) or long term care evaluation (form DHS 1147), as appropriate, shall be completed prior to admission.
- (2) If the referral is not appropriate, the social worker shall advise the referring worker to continue exploration of other community alternatives.

(e) The director may cause the person to be admitted to Waimano pursuant to the person's individualized service plan if the director determines there are no suitable alternatives available which would be less restrictive than admission.

(f) No minor or adult shall be entitled as a matter of right to be admitted to Waimano.
 [Eff. **OCT 22 1990**] (Auth: HRS §§321-9, 321-10, 333F-18) (Imp.: HRS §333F-10)

§11-88-28 Contesting inappropriate admission to Waimano. The department shall contest all inappropriate admissions to Waimano as ordered by the court. These may include but not be limited to:

- (1) Admissions of individuals who do not meet eligibility requirements;
 - (2) Admissions of individuals who are convicted by the court for criminal acts.
- [Eff. **OCT 22 1990**] (Auth: HRS §§321-9, 321-10, 333F-18) (Imp.: HRS §333F-9)

§11-88-29 Payment of fees for care and treatment of residents at Waimano. The inclusive rate for the intermediate care facility for the mentally retarded (routine and ancillary) services for residents at Waimano shall be determined by the director following public hearings. The Waimano services shall include room and board, standard items of clothing and toilet articles, food and nutrition services, laundry service, basic nursing and treatment supplies, dental services, medical and related services, nursing services, pharmacy services, physical and occupational therapy services, psychological services, recreational services, social services and speech pathology, and audiology services and other services required to meet the active treatment needs for the residents. The inclusive rate shall not supersede payment rates heretofore set by the court for court-ordered commitments and by agreement for voluntary commitments unless such rate is higher than the inclusive rate in which case the inclusive rate will be charged.
 [Eff. **OCT 22 1990**] (Auth: HRS §§321-9, 321-10, 333F-18) (Imp.: HRS §333F-13)

§11-88-30 Reserved.

§11-88-31 Reserved.

§11-88-32 Reserved.

§11-88-33 Reserved.

SUBCHAPTER 6

OTHER PROVISIONS

§11-88-34 Individualized service plans. (a) If the division determines in accordance with subchapter 4 of these rules that the person is eligible for services, a written individualized service plan (ISP) shall be developed within 30 working days. The activities to be undertaken shall include but not be limited to:

- (1) Assignment of a case manager.
- (2) Assessment by appropriate members of the interdisciplinary team (IDT) to determine service needs prior to the conference.
- (3) A conference involving appropriate IDT members and individual, parents, guardians, and/or other representative as appropriate to formulate the ISP.
- (4) Consideration and integration of other individualized plans, such as, but not limited to, individualized educational plan.

(b) The case manager shall prepare and be responsible for the ISP.

(c) The components of an ISP shall include the nature of the needs of the client, client goals, objectives, activities, a time line for the accomplishment of the goals and objectives, and the primary person or persons responsible for the activities.

(d) The case manager shall send copies of the ISP to persons responsible for implementing the ISP.

(e) The case manager shall ensure that the ISP is being implemented, monitored at least quarterly, and revised as necessary.

(f) The case manager shall ensure that the ISP will be annually reviewed and revised preferably by each client's birth month. Clients shall continue to receive services as long as their ISP indicates the need for services provided by the Division. [Eff.

OCT 22 1990] (Auth: HRS §§321-9, 321-10, 333F-18)
(Imp.: HRS §333F-6)

§11-88-35 Standards and monitoring of services.

(a) All services and programs contracted for or provided by the division shall meet the division's program and fiscal standards as well as federal standards when applicable.

- (1) The program standards established by the division shall be based on nationally recognized standards and principles including the standards promulgated by the council on the accreditation of rehabilitation facilities and the standards of the accreditation council on developmental disabilities.
- (2) The division shall designate monitoring teams of qualified professionals and specialists.
- (3) Program monitoring may include, but not be limited to, reviews of the following:
 - (A) Attention to normalization principle and least restrictive alternatives;
 - (B) Governing body and administration;
 - (C) Health and safety;
 - (D) Individualized program plans and implementation of plan;
 - (E) Personnel standards;
 - (F) Physical facilities and equipment;
 - (G) Individual assessments, evaluations, and staffing;
 - (H) Records and recordkeeping; and
 - (I) Staff development.
- (4) Fiscal monitoring standards are based on generally accepted accounting principles and audit standards, and may include, but not be limited to:
 - (A) Allocation of expenditures;
 - (B) Allowability and appropriateness of expenditures;
 - (C) Client funds;
 - (D) General ledger;
 - (E) Internal controls;
 - (F) Payment of payroll taxes;
 - (G) Payroll records;
 - (H) Testing of posting procedures; and
 - (I) Testing of receipts and disbursements.
- (5) The division may recognize accreditations by national accrediting organizations and not duplicate monitoring covered by the nationally accrediting organizations.

(b) Fiscal and program monitoring shall be performed in accordance with chapter 42, Hawaii Revised Statutes, not less than annually, but more often if warranted.

(c) All services and programs contracted for and provided by the division must meet applicable federal and state regulations and licensures; and thus shall be subject to evaluations and monitoring by such applicable agencies.

(d) The division shall encourage monitoring and evaluation of its programs by impartial recognized bodies such as established human rights and quality assurance committees. [Eff. OCT 22 1990] (Auth: HRS §§321-9, 321-10, 333F-18) (Imp.: HRS §333F-17)

§11-88-36 Standards of transfer from one facility to another. (a) The division shall provide a process and system that will ensure appropriate residential placement and transfers of persons who are provided services through the division.

- (1) To ensure appropriate placement or transfer, the interdisciplinary team shall assess the person's behavior, level of self-care, social functioning and medical condition and take into consideration personal and/or family preference and individual compatibility.
- (2) Based upon the examination of the four major areas above, a placement or transfer will be recommended. Types of residential services provided shall include but not be limited to medical, active treatment, training, supported, and independent. [Eff. OCT 22 1990] (Auth: HRS §§321-9, 321-10, 333F-18) (Imp.: HRS §§333F-2, 333F-8, 333F-18)

§11-88-37 Termination of services. (a) The division shall terminate services to persons who are dd/mr when the individual:

- (1) Dies;
- (2) No longer requires services by the division as determined by assessments and evaluation completed by the interdisciplinary team;
- (3) Permanently leaves the state;
- (4) Is withdrawn from services by parents or guardians; or

- (5) No longer wants services.
 [Eff. **OCT 22 1990**] (Auth:-HRS §§321-9,
 321-10, 333F-18) (Imp.: HRS §333F-12,
 333F-18)

(b) Notice of proposed termination of services shall be in writing to the person and/or the guardian. Such notice will also include the copy of the appeals process, if applicable.

§11-88-38 Appeals and grievances. (a) Any person who is declared ineligible, or denied service or who is dissatisfied with services or upon receipt of proposed termination from services, shall have the right and full opportunity to appeal in accordance with the division's appeals procedures, distributed at time of application and available in program units. During an appeal, all services will continue. When the grievant is receiving services from purchase of service providers, the grievant should follow established purchase of services providers' appeal procedures prior to utilizing the division's appeal procedures.

(b) The grievant and/or representative shall be provided an opportunity to have their complaint or grievance heard through an informal and/or formal process. The grievant may choose to address the grievance through an informal review which shall not preclude the right to a formal review process.

(c) Informal appeals shall be a means by which grievances shall be addressed informally through an administrative process. The following procedure shall be followed:

- (1) Request for an informal review may be made of any of the:
- (A) staff worker(s);
 - (B) unit supervisor;
 - (C) section supervisor;
 - (D) branch chief; or
 - (E) division chief.

When a request for an informal review is received, either orally or in writing, the grievant shall be given the opportunity to discuss reasons for the proposed action and to present information to show that the proposed action is incorrect.

A written decision shall be made within twenty (20) working days from the date of the

request for an informal review. If the division is unable to comply with the timeline, a written response for the delay shall be sent to the grievant.

If decisions are made at any stage as noted above, the decisions shall be reviewed with the grievant and rendered in writing. The grievant has the right to a representative to speak on his or her behalf.

- (2) The grievant or representative has the right to request a formal hearing if the grievance cannot be satisfactorily resolved. The grievant shall be given a simple verbal explanation of the procedure and a written outline of the formal grievance procedure. The formal grievance process may be filed as provided in Title 11, Chapter 1, Rules of Practice and Procedure, Department of Health. [Eff. OCT 22 1990] (Auth: HRS §§321-9, 321-10, 333F-18) (Imp.: HRS §333F-18)

§11-88-39 Removal or resignation of director as guardian of the person. Any parent, relative, or other interested party may petition the family court for the removal, resignation, or substitution of the director as guardian of the person as specified by section 560:5-307, HRS. [Eff. OCT 22 1990] (Auth: HRS §§321-9, 321-10, 333F-18) (Imp.: HRS §333F-18)

§11-88-40 Earnings and income of residents and wards. (a) The director shall be responsible for the collection, conservation and disposition of all earnings and income of any resident or ward of the director, who is not subject to the control of a court appointed guardian of the property.

(b) An account for each resident or ward shall be maintained with an insured financial institution, designated by the director. All monies received for or on behalf of any resident or ward shall be initially deposited intact into this account. All withdrawal slips shall be signed by the custodian and administrator authorized and designated by the division chief. A recordkeeper, designated by the director, shall reconcile the sum of the individual accounts with the financial institution at least monthly. The monthly reconciliation shall be reviewed and approved

by an administrator, other than the recordkeeper, designated by the division chief.

(c) A custodian of funds, other than the recordkeeper, shall be designated by the division chief for the resident or ward.

(d) The business manager, accountants, or any other administrator within the division, other than the custodian, designated by the division chief shall be responsible for all recordkeeping functions involving deposits and withdrawals of funds. The recordkeeper shall prepare such reports as are required by the director or comptroller of the State of Hawaii. When expenditures are made on behalf of a resident or ward, a voucher or receipt shall be submitted to the recordkeeper by the employee performing or assisting in the purchase.

(e) The division chief or designee as representative for the director shall be responsible for the collecting and depositing of earnings and income of residents and wards of the division.

(f) If the resident or ward is determined to be able to understand the purpose of withdrawal pursuant to the IDT evaluation, an explanation shall be made to the resident or ward and the withdrawal request shall be obtained either by the individual's signature or an appropriate mark. If the resident or ward is unable to comprehend the purpose of withdrawal, the employee, the ward's supervisor or resident's supervisor, or a program director may make a request for withdrawal on behalf of the resident or ward.

(g) Not less than two administrators within each branch designated by the division chief shall have authority to grant approval for withdrawal of funds.

(h) The division chief shall designate responsible persons for budgeting the resources and financial needs of each resident or ward.

(i) At least annually, the director shall conduct periodic audits of the expenditures, accounts, and fiscal procedures contained in this section.

[Eff. OCT 22 1990] (Auth: HRS §§321-9, 321-10, 333F-18) (Imp.: HRS §333F-14)

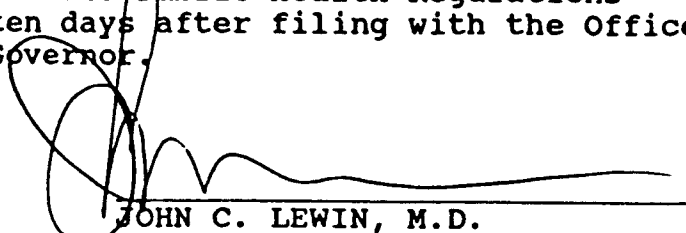
§11-88-41 Severability. If any provision of this chapter or the application thereof to any person or circumstances is held invalid, the remainder of this chapter or the application of the provisions to other persons or circumstances shall not be affected thereby. [Eff. **OCT 22 1990**] (Auth: HRS §§321-9, 321-10, 333F-18) (Imp: HRS §§321-9, 321-10)

§ 11-88-42 Reserved.

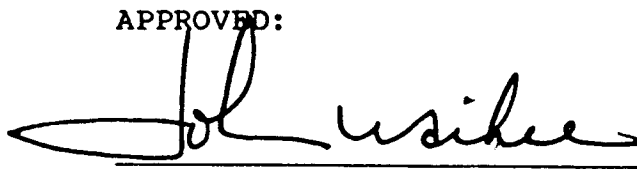
§11-88-43 Reserved.

The Department of Health authorized the repeal of Chapter 145 of the Public Health Regulations, and the adoption of Chapter 88, Title 11, Administrative Rules on August 8, 1990, following public hearings held on Oahu April 17, 1990, on Hawaii on April 26, 1990, on Kauai on April 20, 1990, on Maui on April 16, 1990, after public notice was given in the Honolulu Star Bulletin on March 14, 1990, in the Hawaii Tribune-Herald on March 15, 1990, in the Garden Isle on March 15, 1990, and in the Maui News on March 14, 1990.

Chapter 88 of Title 11, Administrative Rules and the repeal of Chapter 145 Public Health Regulations shall take effect ten days after filing with the Office of the Lieutenant Governor.


JOHN C. LEWIN, M.D.
Director
Department of Health

APPROVED:

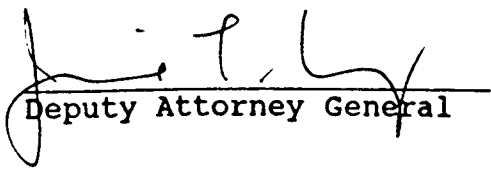

JOHN WAIHEE
GOVERNOR
STATE OF HAWAII

Dated: OCT 10 1990

OCT 11 11 34 AM '90

LEWIS & CLARK

APPROVED AS TO FORM:


Deputy Attorney General

Filed: 10/11/90

Effective Date: 10/22/90